

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 12, 15, 20, 25 and 27-30 are withdrawn as being directed to a non-elected species. On 6/28/2005, the applicant was given an election of species requirement wherein each of the species was directed to a particular figure. In response to the requirement, the applicant elected Species E that corresponded to Figs. 15 and 16. The embodiment of Fig. 15 disclosed a plurality of ballistic panels 26, the ballistic panels made of a plurality of pieces 28. Applicant stated that claims 1-7, 12, 14-20, 25 and 27-34 read on the elected species. However, claim 15 required a ballistic panel. The inclusion of additional panels creates another species separate and distinct from the one previously election. Therefore, claims directed to a panel other than the ballistic panel 26 are hereby withdrawn as being directed to a non-elected species

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US 6219842 issued to Bachner. Bachner discloses a bullet proof vest, comprising: plurality of ballistic panels 22, each ballistic panel comprising a plurality of deformable pieces 24 made of aramid fibers as shown in Figs. 7A, 7B and 8. The pieces are arranged in at least one plane and each sheet is comprised of fibers weaved in a direction transverse to one another.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2723214 issued to Meyer.

6. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2723214 issued to Meyer. Meyer discloses a ballistic panel comprising a plurality of deformable pieces 7 arranged side-by-side and detachably retained as seen in Figs. 1 and 3. The pieces are formed of glass fibers that reads on applicant's "thread fibers" since threads are fibers and fibers are threads. (fiber: **1**: a thread or a structure or object resembling a thread, <http://mw1.merriam-webster.com/dictionary/fiber>). The deformable pieces are arranged in at least one plane a plurality of layers that are offset from one another as shown in Figs. 5 and 6. Meyer does not disclose that the pieces form part of a high-tensile strength fabric. It would have been obvious to one having ordinary skill in

the art at the time the invention was made to substitute the glass fibers with any one of aramid threads/fibers, polyester and synthetic threads and ultra high resistance polyethylene fibers, since each are known equivalents in the armor art (see, e.g., US 200300200861, US 7197972 and US 5196252) and the selection of any of these known equivalents to stop projectiles would be within the level of ordinary skill in the art.

### ***Response to Arguments***

7. The restriction requirement remains as stated above. If the applicant followed and maintained the restriction requirement issued by the examiner this would not be an issue.

8. Applicant argues that Bachner does not show pieces that are “detachably retained.” The examiner responds with a question: Why not? The woven sheets appear to be retained in a single structure and they are surely detachable. The examiner requests a detailed discussion of Bachner so it can be determined why the applicant takes this position. Applicant discloses discrete pieces 22 as discussed above. The manner in which those pieces are made are irrelevant.

9. With respect to Meyer, applicant argues that the pieces do not completely detach from the panel. First, the portion of applicant’s claims that describes the action of the pieces when hit by a projectile is directed to a desired result or intended use. In what “manner” are the pieces retained so that they are detached from the panel and attached to a bullet that is never part of the claims? Furthermore, Figure 1 shows that the individual pieces are directly adjacent one another while Figure 2 shows them

separated when hit by a projectile. Moreover, Meyer does not expressly "teach away" from anything.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is 571-272-6874 and whose email address is troy.chambers@uspto.gov. The examiner can normally be reached on M-F from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Troy Chambers/  
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